IN THE HIGH COURT OF JUDICATURE OF BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 442 OF 2007

IN

SUIT NO. 628 of 1978

Sakar Metal Udyog .. Plaintiff

versus

The Maharashtra State Financial Corporation .. Defendant

...

Mr.Vivek Sharma i/b M/s.Kantawala & Co. for the plaintiff.

Mr.J.B. Mitra i/b M/s.M.P. Rege & Co. for the defendant.

CORAM : D.G. KARNIK,J.

DATED : 15th February 2007.

P.C.:

1. This motion is taken up in a suit which is listed for hearing. Hence under Rule 156 of the Bombay High Court (Original Side) Rules, the motion is required to be heard by the Bench hearing the suit. Motion is accordingly taken up for hearing by

consent.

2. By its order dated 15th January 2007, the Court closed the evidence of the plaintiff as the defendant and its counsel were absent. The defendant has now taken out the motion for setting aside the order of no cross and for permission to cross examine the plaintiffs witness. The reasons given in affidavit in support of the motion show negligence on the part of the defendant. However in the interest of justice, defendant can be permitted to cross examine the plaintiff subject to payment of substantial costs. This is especially so because the plaintiffs witness would have to be .....

3. In the circumstances, motion is allowed in terms of prayer clause (a) subject to payment of costs of Rs.10,000/- as condition precedent. Costs shall be paid within a week. List the matter for cross examination of the plaintiffs witness after two weeks subject to payment of costs as above. Plaintiff shall keep the witness present on 1st March 2007 for cross examination.

D.G. KARNIK, J